



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6

1445 ROSS AVENUE, SUITE 1200

DALLAS, TX 75202-2733

JUL 19 2005

Richard F. Bergner
Richard F. Bergner and Associates
Attorney at Law
5718 Westheimer, Suite 700
Houston, TX 77057

Re: Falcon Refinery

Dear Mr. Bergner:

On July 8, 2005, the EPA was notified in the June 2005 monthly report that the removal cleanup action had been suspended due to the pending sale of the facility. On July 10, 2005, I sent you and your contractor an email which indicated that suspending cleanup operations without obtaining EPA authorization was inappropriate and requested to be contacted and informed of the status of the sale as well as the status of the cleanup operations. On July 11, 2005, Mr. Halasz contacted me by email and by telephone and gave me specifics about the status of cleanup activities and the expected closing dates for the sale of the facility.

It remains my position that suspending cleanup operations without obtaining EPA authorization was inappropriate and in violation of the AOC (Paragraph 54, XIV Authority of On-Scene Coordinator)

"The OSC shall be responsible for overseeing Respondent's implementation of this Order. The OSC shall have the authority vested in an OSC by the NCP, including the authority to halt, conduct, or direct any work required by this Order, or to direct any other removal action undertaken at the Site by the Respondent, EPA, or any other party. Absence of the OSC from the Site shall not be cause for stoppage of work unless specifically directed by the OSC."

As the OSC for this Site, I never authorized or specifically directed stoppage of work nor was such request ever made to me by the Respondent or its representative.

Additionally, the Respondent never made a *force majeure* claim (AOC Paragraphs 61 - 62, XVII Force Majeure) relative to the pending sale of the facility. The pending sale of the facility would not constitute a *force majeure*.

As a result of this action by the Respondent, the EPA may consider seeking payment of stipulated penalties (AOC paragraph 63, XVIII Stipulated Penalties) for the Respondent's failure to obtain prior approval from the OSC for the stoppage of work. It is in your best interests to immediately begin continuation of the cleanup actions thereby reducing the amount of stipulated

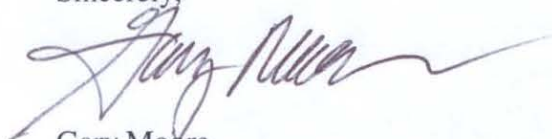
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penalties that National Oil Recovery Corporation (NORCO) may be liable for as a result of it's actions.

If you have any questions, please do not hesitate to contact me at 214.789.1627 or Gloria Moran at 214.665.3193.

Sincerely,

A handwritten signature in dark ink, appearing to read "Gary Moore", with a long, sweeping horizontal line extending to the right.

Gary Moore
On-Scene Coordinator